

Disenfranchisement-counterculture dialectic in the South African story of water access and its impact: A critical reflection

by

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Abstract

The paper is a philosophical reflection on social and hydropolitical issues in South African water story with special reference to water procurement and distribution. The article explores the problem of political disenfranchisement and its reaction in the form of political counterculture in the South African story of the right to access water. It sets the exploration within the framework of disenfranchisement-counterculture dialectic. The former portrayed in the water laws passed by the then successive South African governments and the latter showed by numerous boycotts that took place. The dialectic framework will lead to the preference of a Yin-Yang approach to explain a possible synthesis achievable in an attempt to deal with ongoing boycotts for paying water services delivery. The article advances an argument that a close look at the story of water rights through South African history shows that there is a disenfranchisement-counterculture dialectic underpinned and propelled by social and political drives that are rooted in the past.

1. Introduction

Counterculture in the shape of boycotts as a reaction to any disenfranchisement of any description in a social, economic and political setting creates a dialectical situation that has impact to humankind – either positive or negative. In order to understand the context from which counterculture emerges, it is relevant to explore the dynamics and causes of social and political disenfranchisement within the South African history with special reference to the access of water. This will cursorily stretch out back into continued institutionalized exclusions by the then successive South African governments from 1910 to 1994 that failed to integrate native Africans into economic development for them to embrace the culture of paying for water delivery services. It is apparent that the whole situation has created a new cultural disenfranchisement that has caused some counterculture – that of not wanting to pay for water delivery services. The basic questions are: To what extent did the pre-1994 social and political disenfranchisement-counterculture dialectic impacted the post-1994 era's perception of water procurement and governance in South Africa? How best can the process of building a culture of paying for water delivery services be ingrained into people in South Africa so that they do not resort to countercultural reaction?

The paper seeks to closely look at the long-term after-effects of political disenfranchisement of the poor to access water that keep on provoking a countercultural reaction

of sporadic and spontaneous boycotts. A combination of two dialectic approaches shall be employed in different ways, namely, western and oriental dialectics. Explanation of the situation shall be looked at from the Western thesis-antithesis-synthesis dialectic conception. Then after the Western synthesis, the Oriental (Chinese) *Yin-Yang* dialectic conception of society shall be used to explain the situation in search of better understanding.

Before discussing the period that starts off from 1910, the author seeks to cursorily look at social and political events that shaped the dynamics of the foundation to the 1910 to 2008 historical scenario. These includes the establishment of the Anglo-Boer republics that later turned into British colonies and then the Union of South Africa's four provinces. This will not be a detailed historical account but a walk through history to understand the story of the right to access water in South Africa. That will simply depart from some few years before 1910 part of the history of South Africa since that was the time when the Union was born.

This paper is qualitative research based on *historico*-philosophical methods to give a rational explanation of events in order to speculate about cause-and-effect relationships in the story of water access in South Africa. It will be historical research in the sense that it will seek the meaning of events relating to human interactions where political and cultural intolerance takes centre-square with special reference to water access. It will also be philosophical research in that it seeks to give interpretation for the reader to understand cultural and religious presuppositions that underpin certain practices.

2. Disenfranchisement in the South African water history – a sketch of bird's view since 1910

The context in which South African water laws was made is within the dimensions of conquest and disruption that resulted in legalized disenfranchisement of the natives' basic human rights to access water. It is necessary to construct a picture of that context in order to understand the dialectical phenomenon. The *Collins English Dictionary* defines the word, disenfranchise as “to deprive (a person) of the right to vote or other rights of citizenship; ... or the right to send a representative to an elected body.”² Fisher and Green (quoted in Green, 2004) also define disenfranchisement as “being deprived of the capability to participate and influence agenda setting and decision making in international regimes for sustainable development”. So the concept or process of disenfranchisement can be referred to as a voluntary act by a government of the day, or any power dominating to incapacitate a person and/or group of people by taking away their rights to participate meaningfully in any sphere of national or local agenda for development. It is also the taking away of a person's or group of people's right to access a common good – in this case water.

The dialectical phenomenon of disenfranchisement and counterculture featured since in the early part of the seventeenth century of the South African water history. A brief historical overview of South Africa, with special reference to water laws – prior to 1994, shows that it was underpinned by laws that promoted exclusions of the majority of the population. Early days of the South African water history show that there were conflicts of water that took place between the European travelers (who later turned settlers) and the native host groups – the Khoikhoi and the San – in the southern tip of Africa.³ Tempelhoff tries to paint a picture showing that there

was no acquisition of water without payment by the European visitors; rather flattering *cum* negotiated exchange of water and gifts by the European sailors-turned-settlers – what he calls “indirect payment.”⁴ Du Preeze shows that there were water conflicts from the onset that even resulted in the death of some sailors.⁵ Surely European settlers did not pay for water, let alone land; rather there were land seizures, cattle taking, and most especially water reserve control.⁶ Land was taken under conquest by the Dutch East India Company (DEIC) led Jan Van Riebeeck that resulted in “the original occupiers” (Khoikhoi and San) becoming “trespassers” and slaves.⁷ It led to the Khoikhoi-Dutch wars that started in 1659 through 1677.⁸ According to Tewari, in 1652 Jan Van Riebeeck “invoked Roman Dutch law” at the Cape⁹ – a transplantation of water rights of the Netherlands legal system – that influenced the colony until 1820.¹⁰ Bate and Tren pointed out that Roman-Dutch law’s general principles on water were:

[F]lowing water is an object of common interest to all inhabitants of the public (*res communes*). It should be noted that only rivers with a strong, sustained flow are classified as public water. Water rivers which dry up during seasons of low rainfall, was held to be private (*res in commercio*). The water was owned by whoever abstracted it when it flowed. Groundwater was deemed to be landowner’s property.¹¹

The above quoted general principles of the Roman-Dutch law laid the foundation of post-customary South African water law and origins of water rights. It is not clear whether the public mentioned in the quoted principles included the native people.

In 1795 there was a conflict between the British and Dutch that led to the former’s warships opening fire and crushing the latter’s garrison at the Cape.¹² The conflict resulted in the end of the DEIC’s 150 year control of the Cape.¹³ The British consolidated their occupation of the Cape in 1806 by introducing the English legal system that underpinned a new land ownership policy.¹⁴ Its influence on water allocation from 1820 to 1856 saw the introduction of “freehold title”¹⁵ to property that in turn allowed the introduction of the English “common law riparian doctrine”¹⁶ – hence the dominance of the principle of riparian rights.¹⁷ According to Bate and Tren, under the English common law,

[S]tate control of water was an alien concept because the crown had no control over water rivers, except for navigation rights. River banks then belonged (and still do) to landowners on both sides of a river, and the water was subject to an equal right for riparian owners upstream and downstream. ... The principle of riparian ownership took the place of the state control over water resources and the new judicial policy gradually ended the role of the state as *dominus fluminis*.¹⁸

What it meant was, in the words of Bate and Tren, “riparian ownership became the basis for water rights in South Africa.”¹⁹ It was a complete turn of things in terms of procurement and allocation of water in the Cape Colony. It was not before the Colony began codifying water law that resulted in the passing of the *Water Right Act of 1892*, the *Irrigation Act No. 32 of 1906*,²⁰ and the *Irrigation Act Amendment Act No. 40 of 1909*.²¹ The language in the Acts impressed a tone that equality was there in Cape Colony but it was simply for whites because the Khoisan had been rendered landless and they served as cheap labour or slaves. However, the process of water law codification in the Cape triggered a momentum of writing water law. Something of

commonality with the Dutch appeared: like Jan Van Riebeeck, the British transplanted English legal system to the Cape Colony. The legal system that was in operation at the Cape remained the basis of future formulation of water law in South Africa. Since the Khoisan and other African people were already deprived of their right to land ownership through conquest and colonialism, the same was their access to water since then and for many years that followed up to 1994.

According to Pieres, Afrikaners were not happy under the British rule in many ways: they showed a "deep-seated conviction that an unpredictable and basically malevolent power had usurped the control of their destiny."²² Natural, social and economic difficulties made it impossible for the Afrikaners to fit under the British rule. One of the difficulties was caused by the depression that started in 1825, for it is said many Voortrekkers incurred losses at the abolition of slavery.²³ The British government decided to pay out the slave compensation money in Britain rather than in South Africa.²⁴ It was not easy for the Afrikaners to pay for slave compensation. Consequently, Afrikaners lost "four-fifths of the market value of their slaves."²⁵ That and many other reasons that have no space here led some Voortrekkers to initiate explorations to new areas. They set out to go and settle in Natal.²⁶ At the harbour of Port Natal was a small community of traders, sailors, missionaries, and explorers. This set a basis for a state. As they endeavour to settle in the new place Afrikaners encountered the Zulu. The split that was among the Zulu counted to the advantage of the Afrikaners to win in their military campaigns. They defeated the Zulu and established the Republic of Natalia.²⁷ The laws of the Republic of Natalia, based on the articles of the Winburg-Potchefstroom Republic,²⁸ had no legal accommodation for natives' right to access land and water other than the privilege to be slaves – let alone the right to vote.²⁹ According to Giliomee "the trekkers' passionate commitment to freedom and self-governing [from the British] did not include the Africans."³⁰ The main reason for such exclusion was that trekkers believed that "freedom was a right reserved to whites,"³¹ especially male whites. Giliomee goes on to say that trekkers regarded Africans "as less civilized people who could be ordered to work and be punished if they refused."³² Consequently, the Afrikaner *Volksraad* [Afrikaaner People's Council] of the Republic of Natalia fought hard to drive all natives out of its borders.³³ Of the 6000 white men, women, and children who were the citizens of the republic, only men had the right to vote.³⁴ The republic was short-lived. Its *Volksraad* subjected and submitted to British control, thus, Natalia was annexed in 1843.³⁵ Two years later it was incorporated in the Cape Colony.³⁶ When the British took over, they enacted water laws that favoured irrigation.³⁷ The *Irrigation Law No. 26 of 1886/7* was passed to control the usage of water.³⁸ Then *Irrigation Act No. 26 of 1891* was enacted to promote irrigation.³⁹ According to Bate and Tren, *Irrigation Act No. 26 of 1891* "gave preference in the development of irrigation schemes to owners' first-in-time relative to others."⁴⁰ Farms were mostly owned by whites. That meant access to water for native people, based on equal rights, was not there.

After the annexation of the Republic of Natalia by the British, Afrikaners trekked northwards. In 1852 and 1854 they established two republics: South African Republic ((SAR) or *Zuid Afrikaansche Republiek* (ZAR) – later on informally referred to as the Transvaal Republic) and Orange Free State (OFS), respectively.⁴¹ The SAR laws regarding "African subjects" were drawn from those of the Republic of Natalia.⁴² Africans were supposed to be in the republic only when they were rendering services to a white man. That meant native people had no access to land; and as a result they had no right to water. Like the Cape Colony, the SAR also engaged in the process of codifying water law – that saw the passing of the *Irrigation Act No. 27 of 1908*.⁴³

It was amended by enacting the *Irrigation Act Amendment Act No. 7 of 1909*.⁴⁴ The act was beneficial to white farmers and those who owned land.

Concerning the establishment of the Republic of Orange Free State, there were delicate negotiations that took place before its institution.⁴⁵ According to Oakes, "no blacks signed the convention, and by no means all whites were in favour of it."⁴⁶ Thus the natives were again 'invisibilized' by leaving them out of a negotiated settlement. In 1905 the OFS enacted the *Breeding Stock and Water Conservation Loans Ordinance No. 25 of 1905*.⁴⁷ It was followed by the enactment of the *Right of Water Ordinance No. 10 of 1906*⁴⁸ which was in turn followed by the passing of the *Irrigation Settlements Act No. 31 of 1909*.⁴⁹ All these laws had nothing to do with equal right to access water for both blacks and whites since natives were not allowed to be property owners in the republics.

The Anglo-Boer war that began in 1899, according to Davenport, was "to determine which white authority held real power in South Africa".⁵⁰ It was simply a war between the two white minorities without blacks involved because Republican laws forbade blacks to carry weapons – rather they were just "wagon-drivers or servants".⁵¹ Even though such was the situation, later it was found out that there were blacks who were conscripted into the armies of the two sides.⁵² The Treaty of Vereeniging was signed on May 31, 1902 to end the war.⁵³ Although the Boers "feared the British rule" of its "relatively liberal laws of the Cape Colony"⁵⁴ that contained the language of equality of all men, they offered for "treaty of friendship".⁵⁵ The treaty contained the language of economic co-operation, political rights, demilitarization of republics through mutual amnesty.⁵⁶ The British government had always been playing a double standard game: whilst speaking about the equality of peoples (sounding anti-racism), "by 1908, allowed the former Boer republics to adopt white-controlled constitutions".⁵⁷ Something was wrong with British approach to the issue of natives in South Africa. In 1910, as shall be discussed below, Britain "conceded to the Boers once again ... at the National Convention of 1908-1909" – by passing a "white-controlled constitution" that led to the formation of the Union of South Africa.⁵⁸

The idea of unifying the four colonies – the Transvaal, Orange River, Natal and Cape – was mainly engineered by General Jan Smuts as an alternative solution to the economic deadlock during the International Customs Conference that took place in May 1908.⁵⁹ The unification idea did not mention anything to do with the native people. In that year (1908), only white representatives from the four colonies met as the South African National Convention in Durban to work on terms of the formation of the Union of South Africa.⁶⁰ According to Johns III, at the end of the meeting; it indicated that "the overwhelming majority of the delegates clearly intended to limit the role of Africans [and other non-whites] in any political system devised for a unified South Africa."⁶¹ This exclusion was the initial visible act of socio-economic and political disenfranchisement in South Africa. It is not clear why native Africans were left out in this important meeting. One wonders whether the reason could be that native Africans preferred federation rather than unification.

Be that as it may, a close look at African political activities during the wake of the formation of the Union of South Africa's political order – from 1882 to 1909 – shows that native people were fighting against exclusion in the future of national political life and participation.

They wanted franchise rights to be included in the Draft Act of the Union as was the case in the Cape Colony. It follows that, in 1909, Africans called for a counter-convention in Bloemfontein as South African Native Convention.⁶² The meeting endorsed “the principle of Union” but called the imperial government “to give equal rights to all South Africans regardless of color”.⁶³ This was a call never heeded by the British government. Instead, the imperial government passed the *South African Act* of 1909 (that was effected in 1910), without amendments as demanded by native Africans – with parts that excluded Africans in many spheres of social, political and economic life.⁶⁴ That meant the native people did not have a say in the future enactment of laws that had to do with their well-being – including the laws on procurement and distribution of resources such as water.

The Union of South Africa passed its first water law: the *Irrigation and Conservation of Waters Act No. 8 of 1912 (ICWA)* that repealed all the water laws that were governing procurement and distribution in the four provinces. It drew mainly from the two pieces of law enacted earlier on: the Cape Colony's *Irrigation Act No. 32 of 1906* and the Transvaal Colony's *Irrigation Act No. 27 of 1908*.⁶⁵ The ICWA was meant to codify all water laws of the Union. It maintained the distinction between private and public waters.⁶⁶ Bate and Tren argue that the ICWA was primarily in favour of irrigation not procurement and management of water.

After the issue of the *Union Act* of 1909 was passed by the British government, Africans were to wrestle with the new laws that the Union of South African government enacted such as the *Natives Land Act No. 27 of 1913*. This was an Act that outlawed native Africans from owning or renting land outside designed reserves. Willan, Sol Plaatje's biographer (quoted in Spies) describes the Act as threatening “the interests and well-being of virtually every section of the African population”.⁶⁷ Grundlingh argues that “during the period 1934-1948 the official government policy towards Africans was that of segregation”.⁶⁸ He (Grundlingh) further argues that “it was a policy that politically excluded Africans from meaningful participation in the affairs of state while it sought to consolidate white supremacy in the face of a growing African proletariat”.⁶⁹ This is shown by the state's passing of the *Representation of Blacks Act No. 12 of 1936* that saw the removal of the names of black voters from the common roll in the Cape, and was registered on a separate roll.⁷⁰ Instead, four white senators were then to represent all native Africans in the four provinces of the Union. With no vote in the Union, natives had no voice in the national affairs of the country. Furthering the cause of segregation, the government passed the *Development Trust and Land Act No. 18 of 1936* – to increase the reserves and to “eliminate ‘black spots’ (black-owned land surrounded by white-owned land)”.⁷¹ The *Natives' (Blacks') Laws Amendment Act No. 46 of 1937* that was stopping natives from acquiring land in urban areas unless given consent by the Governor-General to do so.⁷² In the words of Grundlingh, the act was “to reinforce the system of urban segregation and influx control.”⁷³ That negatively impacted African experience of urbanization. That is to say, natives were denied an opportunity to cultivate a culture of paying services delivery in an urban set-up. Consequently, it created a solid foundation for building an apartheid state.

In 1948, the South African state, under the National Party, consolidated segregation by openly and increasingly institutionalizing the ideology of – that portrayed ‘big-brother-is-watching-over-you’ hegemony – pervading all human life spheres. It was the first time segregation was explicitly and officially pronounced in the national laws in South Africa. This

created a strained political atmosphere. Government structures were turned into a machinery of fanatical political hatred billowing with a massive conflict – perceiving every voice of dissent a monstrous onslaught worth of annihilation. In reaction to this atmosphere, the natives developed a counterculture that started to be visible with the Bloemfontein counter-convention in 1909. This counterculture assumed both violence, defiance by not paying for rent and any service delivery to the then municipalities, and later armed struggle.

The apartheid government promoted some laws that propelled the ‘lion’s share’ form of distribution practices in South African. Natural resources, including that of water were not equitably distributed. The two land Acts of 1913 and 1936 were intensified by the *Water Act No. 54* of 1956 which was tended to be biased towards riparian rights. As already indicated above, there was an inseparable connection between land ownership and control of water within one’s private property. With the control of over 80% of land, it was obvious that whites were controlling a large area of water resource in land and in the ocean. Until 1998, South African water resources were managed under the amended *Water Act No. 54* of 1956. It was repealed by the *National Water Act No. 36* of 1998. While the former was based on the riparian rights, the latter is based on human rights. With the value of water perceived in speculative terms, the application of the riparian rights in water control had fatal implications to homeland ‘republics’ that did not have their own water laws. Schmitz (1999) portrays the situation influenced by the riparian law as follows:

Through riparian law, control over water was linked to ownership of land adjacent to streams and rivers. Because of the high concentration of land ownership among whites, a white farming elite came to control much of the water bulk to the detriment of other claimants.⁷⁴

At the centre of Schmitz’s description of the situation, is the indication that the South African land and water laws protected owners of waterfront property by bestowing them a right to enjoy unaltered water quality and quantity. This had long-term impact on other users, especially those banished in homeland areas such as Venda where most of the rivers were under farming users’ control. Jacobson describes South Africa in terms of water as “a semi-arid and water-scarce country, [with] the average annual rainfall, albeit unevenly distributed, [of] about 500 mm.”⁷⁵ That meant the native people in the rural South Africa both by legislative intent and natural situation had serious problems to access water.

The *Group Areas Act No. 77* of 1957 was one of the fundamental legislations enacted by the National Party government that promoted the ‘lion’s share’ distribution of land. It was this act that led to the creation of the ‘homeland republics’. In the words of Lahiff, (under the *Group Areas Act No. 77* of 1957),

[T]he apartheid regime, from 1948 to 1994 ... forcibly removed ... [millions of black people] from cities and farms and dumped [them] in ... ten 'homelands' designated for the country's various linguistic groups. These territories all acquired the trappings of self-rule and their own authoritarian regimes, and four - Transkei, Ciskei, Bophuthatswana and Venda - were granted the unlikely status of 'independent' republics.⁷⁶

Forced removals pushed millions of Africans to those areas which were under traditional rule. Although it was not explicit, the situation created an unofficial dual legal system at work – customary law and common law (based on Roman Dutch law (and/or English legal system)). Given the fact that the leader of a homeland government was a chief – considered to be the embodiment of traditional law – customary law was in practice. This duality enhanced the philosophy of separate development – apartheid. The two laws seemed to have been working differently: on the one hand, common law was applicable in cities, towns, and urban centres such as Thohoyandou and farming areas of South Africa. On the other hand customary law was applicable in the homeland's rural areas where many people were living under a traditional leader.

Under customary law, these traditional leaders never pushed for any payment of water delivery services provision. It had not been within the economic traits of most of the African communities that water should be paid for or its delivery. Also, water has never been problematized in speculative terms but simply as a natural resource to meet basic human needs. This is because the building of a well was a communal venture in many African communities. The laws that governed the distribution of water were spontaneously knitted together and drilled in every commoner's head for the success of the community. So paying for services, especially for water delivery remained a foreign exercise in the former homeland areas and in some rural parts of South Africa. Consequently, this did not give native people time to acquaint themselves with the culture of paying for rates, water delivery services, and other services, rather they acquainted themselves with political reaction to the situation of the day.

3. Boycotts: Countercultural antithesis tool to disputes in the South African story of access to water

Theodore Roszak, coined the term, "counterculture" in 1968.⁷⁷ By then the term had a narrow meaning. It only gained a broader meaning as an after-event-reflection later in 1969 to describe a mosaic of things that took place in the USA during the 1960s and continued into the 1970s as a result of "a social revolt among middle-class young people".⁷⁸ Kamin states that, that was the time counterculture emerged.⁷⁹ These young people were opposed to the Vietnam War. The core reason or their revolt was that they were against "a society that could uncritically pursue such a war."⁸⁰ It assumed both political and cultural aspects: on the one hand were political participants known as the New Left movement; on the other hand were cultural participants called the hippies.⁸¹ The political aspect of the revolt, which Kamin called "political counterculture", was "spearheaded by the Students for Democratic Society (SDS)" that "pursued the ideal of participatory democracy".⁸² It also encompassed the civil rights and peace movements who "had published the failures of the existing system".⁸³ The platform made the New Left to gain national visibility through protest demonstrations in support of the civil rights movement and against the Vietnam War.⁸⁴ On social counterculture, the Hippies "rejected the traditional family in favour of other arrangements based on love".⁸⁵

After the 1960s-1970s periods, there emerged various definitions and/or descriptions of counterculture to account voices of dissent in different parts of the world. Biddulph, writing about the situation in the then Union of Soviet Socialist Republics (USSR), defines political counterculture as "a community of deviance in relation to the established political value-system

within a given social order."⁸⁶ Yinger (quoted in Spates) said that "a counterculture forms when a group of people begins to reject the major values of its society and attempts to replace these with an alternative set of values, many of which are direct opposites of those being rejected".⁸⁷ Roszak describes it as "[A] culture so radically disaffiliated from the mainstream assumptions of our society that it scarcely looks to many as a culture at all but takes on the alarming appearance of a barbaric intrusion".⁸⁸

The online *Encyclopedia Britannica*, in concurrence with Spates and Kamin, states that the term counterculture

[D]escribes a mélange of social, political, and artistic influences that converged in the 1960s and early 1970s. Rejecting the established conventions of society, the counterculture movement reflected the rebellious attitudes of a young, college-educated population who exchanged their parents' traditions for an eclectic set of values.⁸⁹

The fundamental defining feature of counterculture from the above authors is the rejection of the dominant social and political condition and a call for an alternative system with a set of values acceptable to the disenfranchised. According to Momiroski, counterculture "challenges ordinary life and makes demands, sometimes requiring nothing less than the conversion or submission of the majority through revolution".⁹⁰ Heath and Potter argue:

[T]he idea of counterculture has become so deeply embedded in our understanding of society that it influences every aspect of social and political life. Most importantly, it has become the conceptual template for all contemporary leftist politics. Counterculture has almost completely replaced socialism as the basis of radical political thought.⁹¹

The view expressed in Heath and Potter quite correctly describes how counterculture can be seen as a tool to be continuously used to respond to what is felt or perceived to be disenfranchisement.

Counterculture in the South African context should be viewed first, within a broader spectrum of usage as a tool to express voices of social, economic, political, and educational dissent. In the words of Oakes, the South African situation is described as follows:

[T]he political upheaval ... swept through the South African countryside during the 1920s ... driven by anger over poverty, low wages and increasingly tough laws – and supported by trade unionists, communists, political activists, and independent church leaders – thousands of rural Africans began a revolt that was both frantic and unplanned – and that in the end ran out in steam.⁹²

The above quoted view reflects a broad picture of South African black resistance against racial order, disenfranchising laws, and working conditions. In that comprehensive voice of dissent against laws and practices of successive colonial and apartheid governments, it accumulated momentum since 1898 when the South African Native Congress (SANC) was formed to "strive for African rights".⁹³ Then it was followed by the civic organization, the South African Native Convention which convened in 1909 in Bloemfontein as already indicated above. On the political front, in 1912 the South African Native National Congress (SANNC) was

founded, and in 1923 was renamed African National Congress (ANC) but later on banned in 1960.⁹⁴ Prior to its banning, there was a breakaway by its Africanist membership under the leadership of Robert Sobukwe in 1959 and formed the Pan Africanist Congress of Azania (PAC).⁹⁵ The Communist Party of South Africa (CPSA) was formed in 1921.⁹⁶ Under the *Suppression of Communism Act* of 1950, the CPSA was outlawed, and "re-formed underground as the South African Communist Party (SACP) in 1953".⁹⁷ There were also other political organizations that followed the formation of the ANC and the PAC. Both ANC and PAC formed guerrilla wings that engaged in military activities in South Africa, namely, Umkonto WeSizwe (MK – founded in 1961)⁹⁸ and Poqo (Pure (later renamed Azanian People's Liberation Army (APLA – also founded in 1961))⁹⁹, respectively

On labour front, according to Oakes, between 1907 and 1922 there were revolts in many South African cities and countryside: mineworkers fighting against mineowners through strikes for equality in job opportunities and bad working conditions.¹⁰⁰ On equal opportunities, Pampallis elaborates that black mineworkers were against the reservation of 32 types of jobs for whites as required by the *Mines and Works Act* of 1911.¹⁰¹ In 1919, the Industrial Commercial Workers' Union was formed in Cape Town under the leadership of Clements Kadalie – a Malawian.¹⁰² It spearheaded the formation of other big workers union organization such as the ANC aligned South African Congress of Trade Unions (SACTU) which was established in 1955.¹⁰³ Thirty years down the line, the Congress of South African Trade Unions (COSATU) that was established in 1985.¹⁰⁴

On the student front, in 1968 black university students developed the ideology of black consciousness (BC).¹⁰⁵ Its fundamental doctrine was psychological liberation¹⁰⁶ from "white liberalism" – implying "rejection of all "white" values and the inculcation of a positive 'black' worldview".¹⁰⁷ Lester elaborates that BC as a political ideology engaged in "mobilizing and regenerating unprecedented vehement opposition to the state" based on an "appraisal of African history and identity" – which became its "roots of building political resistance".¹⁰⁸ The ideology was largely embraced among black students in colleges of education and traditionally black universities such as Turfloop (University of the North), Fort Hare, and Zululand. It led to the formation of a number of student initiated organizations. It was the impetus behind the formation of the South African Student Organization (SASO) in 1969 under the leadership of Steve Biko.¹⁰⁹ According to Pampallis, SASO was formed "to provide black students with a vehicle entirely their own"¹¹⁰ by moving out of the National Union of South African Students (NUSAS) – founded in 1924.¹¹¹ In 1972, the Black People's Convention (BPC) was formed as an umbrella body "to operate on the political front" for students¹¹² by coordinating "the activities of adherents of black consciousness".¹¹³ Alongside SASO and BCP, Black Community Programmes were "set up to promote black initiatives in the provision of health and welfare".¹¹⁴ Thompson points out that Black Consciousness Movement pervaded urban schools. It is said to have influenced the June 16, 1976 Soweto student demonstrations "against the government's insistence that half their subjects should be taught in Afrikaans".¹¹⁵

The above discussed fronts, with their actions and objectives put together, resulted in both a social and political counterculture. The tool seemed to have been yielding results and was to be reused in many ways by people to air their views. The above briefly described context of the South African counterculture gives us some clues as to what constitutes the continuing

phenomenon of boycotts against the ANC-led government. The political sphere in South Africa since 1908 did not comprehensively carry with it the democratic ideal of equal rights to access the nation's natural resources, in this case water. Political rejection of apartheid as a socio-economic and political framework for analyzing and governing society had an inclination to the left – with many Africans supporting socialism and/or communism as basis for a revolutionary plan of action.

Counterculture in the South African context was and continues to be characterized by boycotts against anything people deem to be not politically and economically advantageous to them. In this case, most boycotts relating to water started with rejection of privatization of water delivery services. Political counterculture may not guarantee common subscription by all the disadvantaged whose "principle identification is with the ideological left" because sometimes or in most of the times it has "disruptive effects on the old hegemony".¹¹⁶ Counterculture was expressed in the form of political mobilization, sporadic and spontaneous popular protests. It was one of the effective weapons in situations where people were aware that things were not politically good for them. For example, local and international protest played a significant part in destroying the then political establishment in South Africa. It then became a proven tool to use for twisting the arm of any government to do what they want.¹¹⁷ The wave assumed homogeneity, and spread all over the country such that it did not spare the homeland areas. Boycotts served to define and communicate the radical political stance opposed to the system of apartheid. This method of making a comprehensive and communal voice of descent to be heard remained a perennial phenomenon that continues to re-live for future use when things do not suit popular taste. The commonly known 1976 Soweto student uprising against educational disenfranchisement through Bantu education pervaded the everydayness of human life of that time. It resulted in a chain of many other boycotts such as not paying for services delivered such as water distribution. Rent and services (for water, electricity and sewerage) boycotts, or protest marches in such places like the Vaal Triangle and Soweto led to largest arrears that the government ended up writing off in 1990.¹¹⁸ That resulted in a big financial loss for municipalities.

One wonders, what are the possibilities of finding a common ground for opposing sides in a situation where there are water shortages as a result of water management interruptions, high prices for water delivery services, clientele that is not prepared to pay for the services, etc? Certainly for municipalities to effect a profitable and affordable water procurement and distribution programme in South Africa there must be found a *Yin-Yang* synthesis point to manage or allocate water in South Africa to abate boycotts.

4. Finding a *Yin-Yang* synthesis point in the South African management of water procurement and distribution

Although initially water problems were not explicitly mentioned, this author is of the view that water issues were ingrained in political thinking and practice – the riparian laws. Successive governments in South Africa prior to 1994 enacted laws that governed the procurement and distribution of water that affected both whites and blacks. These laws were separatist in nature and biased towards the benefit of the whites – destroying all possible opportunities of to encourage meaningful interaction. Looking at what have been discussed

above, it shows that the one sidedness of the legal and political decisions made on water did not go unchallenged. The reaction by black people remained a phenomenon continuum even after 1994. This author is of the view that there was and still is a need of a *Yin-Yang* synthesis approach to the management and/or allocation of water by the South African government.

The most fundamental concept in the Chinese Taoist philosophy is the *Yin Yang* idea of complementary polarity in reality. As a way of describing functional order, *intra-* and interaction of things in the universe, it portrays the idea that “opposites ... hold each other in balance and exert mutual control.”¹¹⁹ According to Kyong-Dong, *Yin-Yang* dialectics “constitutes the ancient Chinese world-view” which later “came to be identified as representing opposite phenomena in the world, some very concrete and others more abstract, some natural and others social.”¹²⁰ Furthermore, Kyong-Dong elaborates that it divides the world into “two opposing categories” or dichotomy, which tells of “the basic element of dialectical world view and the logic of dynamic change.”¹²¹ Kyong-Dong comparatively argues that there is distinction between *Yin-Yang* and Western dialectics that “in the *Yin-Yang* dialectic they are both contradictory and complementary” in that “opposing elements cannot exist without the other.”¹²² In Western philosophy element *thesis* stands dominant while the *antithesis* other is provoked to conflict – resulting in a contradictory relationship. Either of the two sides has to overcome the other in order to cause synthesis.¹²³ In this case one would suggest that the *Yin-Yang* approach is preferable because it tolerates and recognizes stakeholdership. According to Aveleira, “Taoist duality, where *yin* and *yang* polarities continuously breed into each other, offers movement and change, however the *yin-yang* polarities keep in dynamic conflict forever”.¹²⁴ What it means is that it is possible in this dialectic situation to get a point of compromise – synthesis; where water delivery services authorities and consumers settle for affordable prices and establish good relationship. In that way, a culture of appreciating and paying for water procurement and delivery would be developing.

The year 1994 saw the first leg of a long journey to the healing of discrepancies between constitutional philosophy of separate development and institutional practice that presented a false picture of practical socio-political and economic realities on the ground. These discrepancies included false independence of homeland areas while remaining under the rule of the South African government – perpetuating institutionalized exclusion. Upon coming to power, the new government put in place a national water policy set to take drastic and ambitious measures such as, equitable access to water for all citizens, separation of water rights and land rights, and promotion of stakeholder inclusion in the management of water resources. The new era carried with it two important things: (1) a national promise of a new order of things that created hope of immediacy in terms of service delivery and change of life; and (2) an inclusive and meaningful political participation in national affairs. That afforded native people with all rights to own property anywhere in South Africa, as well as the right to access water (in all its characteristics).¹²⁵ Despite restoring these rights to the disadvantaged South Africans in 1994, the long history of disenfranchisement under the National Party and the former homeland governments did not prepare the rural-confined black people for a new culture of paying for services delivery – in this case water. It is a market driven culture aimed at achieving sustainable management of distribution of scarce commodities. In this new culture, water is perceived as a public good, but treated as an economic good.¹²⁶ The market driven culture finds it difficult to flourish where there are no cultural pre-conditions that are in agreement with it. African cultures,

are still weaning from traditions of partial communal and an inclination to monarchical governance.

While the state is the custodian of water, its distribution style is based on market principles. The process of procurement and distribution of water has financial implications that compel the state to expect residents to pay for services provided. If residents do not pay for water service delivery then the problem of cost recovery crotches in the picture. The government attaches some cultural value to the access of water, but due to the principle of cost-recovery, they are forced to disconnect water for those who do not want to pay. The new and dominant culture in democratic systems of paying for water services, or considering water as an economic commodity, is not relevant to the locals. Any disconnection can spark a march against the municipal authority or boycott in paying service fees.

Countercultural demands also tend to contrast mainstream neoliberal economic values and norms. In most cases, in its initial emergence it is misrepresented and misinterpreted. Sometimes it may be dismissed by official progressive political and liberal economic perception as lack of enhancing the building of a competitive society. In the post-1994 South African situation countercultural demand for free basic water as a right can be dismissed as counter productive to market culture of paying for the services.¹²⁷ The problems faced by previous disadvantaged communities in the former homeland areas and the rest of South Africa is still massive (as already indicated above) and widespread. It is proper to think that they will not all be addressed soon. One of the many reasons for them not being attended to is that their roots sink deep into a history of a long series of institutionalized social exclusions and political antagonism that are underpinned by a subtle philosophy of exclusion.

This author is of the opinion that long-term after-effects of apartheid politics left most native communities with nothing in terms of ownership of social, political and economic resources. Consequently, the situation created the most horrible poverty in the reserved-ancestral-lands-turned-homelands and in peri-urban areas designated for native labourers – later known as townships (or locations). As a result these communities are still struggling to alleviate poverty, rid ensuing chronic and pandemic health problems and to deal with limited access to natural resources such as water. It links with Abrams' argument:

The Department did not regard itself as responsible for ensuring that citizens had a water supply and had no political mandate for such responsibility. Furthermore, the country was divided, starting in the 1960s, into nominally independent "homelands" as a consequence of the apartheid separate development policies, and the central Department of Water Affairs and Forestry had no jurisdiction in these areas. These were generally the more arid parts of the country where 75% of the population subsisted on 13% of the land. These areas became increasingly poverty stricken over the years with little or no effective service provision.¹²⁸

With the coming of the new government calling for equal access to basic use of water, that has implications to payment, exerts a demoralizing gravity on convivial spirits of the poor. This calls for a new reaction to the demands of socio-political and economic realities – paying for service delivery. The issue of the culture of paying for water service delivery in former

homeland areas is of particular historical and philosophical interest because it raises questions relating to events that provoke moral thinking with regards to distributive justice. The poor continue to be deprived because of their lack of money to pay for delivery services for water

The question of affordability also quickly emerges. Hence, the argument of *People's Budget*¹²⁹ that it supported the government's programme of "ensuring affordable housing for poor families" and the national policy of free basic water.¹³⁰ However, it (*People's Budget Campaign*) also criticizes the government's efforts as "meaningless if services remain unaffordable" for the poor citizens.¹³¹ The government's failure gave platform for leftist organizations such as COSATU, SACP, AZAPO, and others to criticize the government. The failure was considered as a subtle disadvantaging of the people that needs to be counteracted. Consequently, it remains a vicious cycle of opposites with no end. The question remains: As South Africa evolved from a closed society to an open society does it still requires counterculture in resolving conflicts on service delivery of water related problems?

Boycotts against water privatization featured in the media and research sectors since 1997. Ah Vee *et al* recorded a chronology of water payment boycott since 1997 till 2004.¹³² The problem that featured prominently was that of affordability and anti-privatization of water. *Public Citizen* describes water privatization in Indonesia, South Africa, and United Kingdom as "conflict-ridden" due to the fact that, "What has now become clear is that the major multinational water corporations have no intention of making a significant contribution to the capital needed to ensure access to clean and affordable water".¹³³

In other words, the governments in the above countries might have been banking on the promises made by those companies which were calling for water privatization guaranteeing efficient water distribution and sufficient water availability to the public. In many cases, it did not happen as expected till to date.

Multinational water corporations and financial institutions such as the IMF, the World Bank, regional development banks, and some Western governments are said to present an economic argument that "water privatization (or public private partnership)" as the only answer for water procurement and equitable allocation to the people.¹³⁴ The claim goes further to say:

[B]ringing the private sector into water and sanitation service provision will ensure access to the more than a billion people worldwide who lack clean and affordable water, and the 2.4 billion who lack sanitation services. The private sector is more efficient, cost-effective and competitive. And, the private sector can bring needed financing.¹³⁵

Given the political and ideological inclination of COSATU, SACP, PAC, and AZAPO – that of communist and socialist-propelled revolution – the mention and practice of privatization says it all for the declaration of war in the form of boycotts. These are organizations that have influence among the black poor people of South Africa. According to Ah Vee *et al*'s report, *The struggle against water privatisation in Mbombela between 1997 and 2004*, boycott for paying water services was carried out by the Mbombela Anti-Privatization Forum (MAPF) in the Mpumalanga Province.¹³⁶ A close look at the report shows that boycotts made it hard for the Greater Nelspruit Utility Company (GNUC) in revenue collection such that it "cut all water

services to all local rates defaulters".¹³⁷ The reaction ignited an angry response from the public led by the PAC who in 2001 "forcibly reconnected the residents' water and picketed outside the GNUC offices".¹³⁸ The GNUC threatened a counter-counter-reaction by taking the PAC to court, however, it later "backtracked and promised to provide 25 litres of free water".¹³⁹ Besides all the efforts to make it easier for residents, Adams and Moila noted that a large number of both rural and urban residents however were continued not paying for water delivery services.¹⁴⁰ One wonders, if people are not paying for water delivery services, where do they get their water? It is possible to conclude that where there are such problems service providers are forced to disconnect the flow of water, and in reaction the public concerned would access water simply through illegal connections.

Even if successive post-apartheid governments were to introduce policies that will see a broad stakeholder inclusion in water resource management structures, certain perceptions take time to go. The belief that the only language understood by a government of the day is boycotting and/or picketing seems to take a hold onto the hearts of many previously disenfranchised people of South Africa.

Business and government perceive water as having an economic value, while previously disadvantaged parts of the population hold that it is a common good that should be equitably distributed for free. The former, if not well put across, it leads to subtle disenfranchisements which provoke popular counterculture. In the eyes of the ordinary person it is a natural resource that should meet basic needs and should be available for usage without any cost value. These two perceptions are difficult to change and bring them to a deliberate compromise because they are rooted in a historical background that maintained perpetual duality induced by a philosophy of separate development based on segregation.

The *Yin-Yang* point is reflected in the ideal of stakeholder involvement. It is the only way that is put in the country's legal framework in connection with water procurement and distribution to deal with this conflicting situation. is to find a better solution to water distribution. This can be found in the whole concept of stakeholder inclusion. The government, through the post-apartheid Water Act of 1997 has shown that there is a possibility of finding a common point of operation.

5. Concluding remarks

There is a dialectic situation in South Africa. On one hand, government holds that they have the mandate to do what they are doing for the best interest of the people – procuring and delivering water to the people: hence the slogan "*batho phele*".¹⁴¹ On the other hand, people on the ground feel disenfranchised because there is no basic service delivery such as water for they argue that water is unaffordable. It is situation that requires creative and critical thinking on the part of the government in relation to water procurement and governance.

The first encounter between Europeans and the native people created a phenomenon characterized by ongoing trends of disenfranchisement and counterculture. The movement and change can be seen in the possible negotiated settlement between the apartheid government and the revolutionary movements. That settlement brought in a democratic dispensation that saw the

formulation of new policies; including the new water policy. The new dispensation became a thesis of the dispensation of another problem, namely of lack of services delivery. The situation paints a forceful picture of cultural disenfranchisement of the local people in their attempt to access water.

It is common knowledge that “humanized capitalism” (market economy and democracy) that has been claimed by Francis Fukuyama as the only possible framework of governance proven right for human existence has left many poor people disenfranchised. The ANC-led government secured political mandate and inclusive democratic participation of the ordinary person. However this did not guarantee full implementation of its people-centred policies. Instead poor implementation of these policies on the ground has increased the feeling of disenfranchisement and disparity.

People feel that the government is not doing enough to meet their needs – hence demonstration for various demands. In its effort to prepare citizens, the post-apartheid government adopts a policy based on human rights – that saw the state assuming the responsibility of the trustee of the national resource of water. This development was possible legislatively but does not reflect the situation on the ground. The situation on the ground reflects a lot of constraints on the implementation of the new water policy.

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End-notes

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